

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

ADVANCE COMPONENTS INC.,

Plaintiff,

VS.

**AMERICAN FIRE AND CASUALTY
COMPANY, LIBERTY MUTUAL
INSURANCE COMPANY and
STEPHEN E. STEWART, JR.**

Defendants.

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CASE NO. _____

DEFENDANTS' NOTICE OF REMOVAL

Defendants American Fire and Casualty Company (“American Fire”), Liberty Mutual Insurance Company (“Liberty”) and Stephen E. Stewart, Jr. (“Stewart”) (collectively, “Defendants”) file this Notice of Removal, hereby removing this action from the 393rd Judicial District Court of Denton County, Texas to the United States District Court for the Eastern District of Texas, Sherman Division. Removal is based on diversity jurisdiction because there is complete diversity between Plaintiff Advance Components, Inc., (“Plaintiff”) and Defendants, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

I. INTRODUCTION

This dispute arises out of a claim for hail and wind damage to property located at 2920 Commodore Dr., Carrollton, Texas (the “Property”). Plaintiff alleges that Defendants breached the policy of insurance and violated certain provisions of the TEXAS

INSURANCE CODE by, among other things, failing to pay Plaintiff's claim for damages allegedly resulting from hail and wind.

On August 18, 2017, Plaintiff filed its Original Petition in the 393rd Judicial District of Denton County, Texas against Defendants. American Fire and Liberty were served with a citation and a copy of Plaintiff's Original Petition on September 21, 2017 through their registered agents for service of process. Stewart was also served with a citation and a copy of Plaintiff's Original Petition on September 21, 2017. Accordingly, this Notice of Removal is being filed within thirty (30) days of service of the Petition on Defendants and is thus timely filed under 28 U.S.C. § 1446(b). As explained below, removal is proper because there is complete diversity of citizenship between the parties, and it is apparent from the face of Plaintiff's Original Petition that the amount in controversy exceeds \$75,000.00.

II.

GROUND FOR REMOVAL

A. DIVERSITY OF CITIZENSHIP

Plaintiff is a Texas corporation with its principal place of business in Carrollton, Texas. *See* Plaintiff's Original Petition at ¶ 1. Thus, for diversity purposes, Plaintiff is a citizen of Texas. Defendant American Fire and Casualty Company is a corporation organized under the laws of the State of New Hampshire, with its principal place of business in Boston, Massachusetts. For diversity purposes, American Fire is a citizen of New Hampshire and Massachusetts. Defendant Liberty Mutual Insurance Company is a corporation organized under the laws of the State of Massachusetts, with its principal place of business in Boston, Massachusetts. For diversity purposes, Liberty is a citizen of Massachusetts. Defendant Stephen E. Stewart, Jr. is an individual domiciled in the State

of Pennsylvania. *See* Plaintiff's Original Petition at ¶ 4. For diversity purposes, Stewart is a citizen of Pennsylvania. Accordingly, there exists complete diversity of citizenship between the Plaintiff and Defendants.

B. AMOUNT IN CONTROVERSY

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff's complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiff's Original Petition that its claims exceed \$75,000.00 because Plaintiff specifically pleads that it seeks monetary relief over \$1,000,000. *See* Plaintiff's Original Petition at ¶ 6.

In light of the above, removal of this action is proper under 28 U.S.C. § 1441(a). This is a civil action brought in state court and this Court has original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332(a). In addition, Plaintiff's citizenship is diverse from Defendants. Finally, as alleged in its petition, Plaintiff seeks to recover in excess of \$1,000,000.00 from Defendants. Therefore, the amount in controversy in this case exceeds \$75,000.00.

III.
CONSENT TO REMOVAL

Defendants named in Plaintiff's Original Petition have been served, appeared and consent to this removal.

IV.
COMPLIANCE WITH PROCEDURAL REQUIREMENTS

As required by Local Rule CV-81, Defendants file concurrently with this Notice of Removal a completed civil cover sheet. Additionally, the following exhibits are attached:

- **EXHIBIT A:** Supplemental Civil Case Cover Sheet – listing all parties in this case and the current status of the state court proceeding; listing of attorneys in this case, including each such attorney’s bar number, address, telephone number and party represented; and the name and address of the state court from which this case is being removed;
- **EXHIBIT B:** A certified copy of the Register of Actions in the state court action; and;
- **EXHIBITS C-1 – C-2:** A copy of each document filed in the state court action.

V.
REQUEST FOR RELIEF

Based on the foregoing, Defendants American Fire and Casualty Company, Liberty Mutual Insurance Company and Stephen E. Stewart, Jr. respectfully request that the above-captioned action now pending in the 393rd Judicial District Court of Denton County, Texas be removed to the United States District Court for the Eastern District of Texas, Sherman Division. Defendants further request all such other and further relief to which they may be justly entitled.

Respectfully submitted,

/s/ Mark D. Tillman

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**ATTORNEYS FOR DEFENDANTS
AMERICAN FIRE AND CASUALTY
COMPANY, LIBERTY MUTUAL
INSURANCE COMPANY AND
STEPHEN E. STEWART, JR.**

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| CERTIFICATE OF SERVICE |
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In accordance with the FEDERAL RULES OF CIVIL PROCEDURE, on October 20, 2017, a true and correct copy of the above and foregoing instrument was served *via facsimile or electronic service* upon:

ATTORNEYS FOR PLAINTIFF

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/s/ Mark D. Tillman

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